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NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

DELFINA LOPEZ et al., Plaintiffs, v. GONZALO LLAMAS et al., Defendants.	G039356 (Super. Ct. No. 05CC03200) O P I N I O N
LOANSTAR MORTGAGEE SERVICES, L.L.C., Plaintiff, v. JOSE LOPEZ GUZMAN, Defendant and Respondent; CARLOS CARTENO VASQUEZ, Defendant and Appellant; DELFINA LOPEZ, Respondent.	(Super. Ct. No. 06CC03154)

Appeal from a judgment of the Superior Court of Orange County, Sheila Fell, Judge. Affirmed. Motion to augment, impose sanctions and dismiss appeal. Granted in part and denied in part.

Law Office of Victor M. Cueto and Victor M. Cueto for Defendant and Appellant.

Aviles & Associates, Moises A. Aviles and Joyce H. Vega for Defendant and Respondent and for Respondent.

* * *

INTRODUCTION

Carlos Carteno Vasquez appeals from a judgment entered following a bench trial, awarding Jose Lopez Guzman excess funds collected at a foreclosure sale on property to which Vasquez and Guzman had claimed competing interests. Vasquez contends the trial court erred by (1) admitting into evidence portions of Guzman's deposition; (2) admitting into evidence Guzman's deposition testimony regarding an exhibit that was not authenticated at trial; (3) failing to dismiss Guzman and Delfina Lopez's claims for cancellation of deed, ejectment, and declaratory relief before trial; (4) consolidating the lawsuit filed by Guzman and Lopez with the interpleader action filed by the foreclosure trustee; and (5) awarding Guzman the excess funds notwithstanding Guzman and Lopez's withdrawal of the lis pendens they had recorded on the property.

We affirm. The admission of portions of Guzman's deposition satisfied the requirements of Code of Civil Procedure section 2025.620. Vasquez has failed to show the admission of Guzman's deposition testimony regarding an exhibit that was unauthenticated at trial constituted prejudicial error. The trial court's refusal to dismiss Guzman and Lopez's claims for cancellation of deed, ejectment, and declaratory relief before trial did not constitute prejudicial error as the judgment did not provide Guzman or

Lopez relief under those claims. The trial court did not abuse its discretion by granting Guzman and Lopez's motion to consolidate the action Guzman initiated with the interpleader action under section 1048, subdivision (a) of the Code of Civil Procedure. Finally, Vasquez failed to establish the withdrawal of the notice of pendency of action on the property eliminated Guzman and Lopez's right to claim the excess funds.

BACKGROUND[1]

In February 2005, Guzman and his wife, Lopez, filed a complaint against, inter alia, Gonzalo Llamas and Maria Monroy (Llamas's daughter) for cancellation of deed, ejectment, and declaratory relief (the Guzman action). The complaint alleged that in June 2003, Guzman and Lopez acquired fee simple title to real property located at 737 North Rose Street in Anaheim, California (the property) through a grant deed which was recorded in September 2003. At the time he purchased the property, Guzman executed a deed of trust in favor of Fieldstone Mortgage Company.

The complaint alleged Llamas and Monroy forged Guzman's signature on a grant deed which purported to convey Guzman's interest in the property to Llamas. The complaint stated that although the purported grant deed appeared to be signed by Guzman on July 26, 2004 in Orange County, California, Guzman was incarcerated in Kansas on that date. The complaint further alleged Llamas purported to transfer title to the property to Monroy, through another grant deed which was recorded on September 10, 2004.

[1] In light of Vasquez's failure to designate a proper appellate record and provide a summary of relevant facts and procedural history of the case with proper citations to the record in his appellate briefs, on our own motion, we take judicial notice of the court records in Orange County Superior Court case Nos. 05CC03200 and 06CC03154. (Evid. Code, §§ 452, subd. (d)(1) & 459, subd. (a); *Deschene v. Pinole Point Steel Co.* (1999) 76 Cal.App.4th 33, 37, fn. 2.)

Guzman and Lopez filed a first amended complaint in March 2005 and a second amended complaint in May 2005, each containing these same allegations.[2]

After the lender did not receive payments on the loan made to Guzman in connection with the deed of trust he executed in favor of Fieldstone Mortgage Company, the property was sold to the highest bidder in a foreclosure sale. In February 2006, Loanstar Mortgagee Services, L.L.C., the entity substituted in as foreclosure trustee, filed a complaint in interpleader (the interpleader action). The complaint in interpleader stated that excess proceeds from the January 4, 2006 foreclosure sale of the property equaled the sum of $162,353.75 and that there were competing claimants for those proceeds. The complaint in interpleader alleged that Vasquez claimed "an interest in the remaining sale proceeds by virtue of deed of trust executed by Maria Monroy, as trustor, to secure a debt in the original sum of $100,000.00 in favor of Carlos Carteno Vasquez, a single man, [his] successors and assigns, on or about October 30, 2004 and recorded on March 3, 2005." The complaint in interpleader also alleged Guzman disputed Vasquez's asserted interest in the proceeds "as Defendant MONROY had no actual interest in the property and therefore could not encumber the property and that VASQUEZ deed of trust is not supported by consideration."

In August 2006, the trial court granted Guzman and Lopez's motion to consolidate the Guzman action with the interpleader action (the consolidated action). Also in August 2006, GRE Development, Inc., as trustee for the trust that purchased the property at the foreclosure sale, intervened in the Guzman action and moved to expunge the notice of pendency of action filed at the commencement of the Guzman action by Guzman and Lopez. On August 31, 2006, the trial court ordered Guzman and Lopez's lis pendens expunged because "plaintiff has not established, by a preponderance of the

[2] Guzman and Lopez also named as defendants notary public Narendra A. Shah and Redland Insurance Company. The trial court's file shows Guzman and Lopez's claims against these defendants were settled before trial.

evidence, the probable validity of the real property claim." In September 2006, Guzman and Lopez filed a notice to withdraw the notice of pendency of action as to the property.

In March 2007, Guzman and Lopez's counsel filed an ex parte application to continue the March 19, 2007 trial date in the consolidated action on the ground Guzman was incarcerated in Texas and the attorney had not been successful in reaching agreement with the Federal Bureau of Prisons in Texas regarding Guzman's transportation to trial. In a minute order, the trial court denied counsel's request for a continuance "as set forth on the record." The hearing at which the court stated its reasons was not transcribed for this appeal.

At the first bench trial of the consolidated action, Guzman (who was not present) and Lopez sought to admit portions of the depositions of both Guzman and Llamas. Vasquez objected to the admission of the depositions. The trial court ruled that Llamas's deposition would be admitted into evidence, but Guzman's deposition would not be admitted. The court thereafter ordered all defendants dismissed from the consolidated action under section 631.8 of the Code of Civil Procedure, citing "insufficient evidence."

However, the trial court reconsidered and changed its rulings. The trial court's file includes a minute order dated March 22, 2007, which states: "The Court reconsiders, on its own motion, and hereby reverses its prior ruling which disallowed receipt into evidence of Plaintiff Lopez Guzman's deposition in lieu of live testimony. California Code of Civil Procedure allows such evidence to be admitted when the deposition of the party was properly noticed and no objection was made. The Order of Dismissal as to Defendant Gonzalo Llamas is hereby vacated. The Court will receive the deposition transcript of Jose Lopez Guzman which shall be filed within five court days. The Court further sets the continued trial proceeding on April 10, 2007, at 9:00 a.m. in Department C-34. The Order of Dismissal as to Defendant Carlos Carteno Vasquez shall

remain." After further hearing, the trial court declared a mistrial and set a new trial date for July 16, 2007.

At the second bench trial in July 2007, over Vasquez's counsel's objection, Guzman and Lopez's counsel read portions of Guzman's and Llamas's depositions into the record. Guzman was not present. Following trial, the court issued a minute order dated July 20, 2007, in which it set forth its decision as follows: "[T]he Court having heard testimony through deposition only, having received documentary evidence, having heard argument from counsel, and having concluded the trial on July 18, 2007, hereby issues its findings as follows: The initial purchase of the property [for purposes of this lawsuit] at 737 Rose Street, Anaheim, California, was by Plaintiff, Jose Lopez Guzman, on September 4, 2003. A deed of trust on the property was executed by Jose Lopez Guzman at the time of purchase in favor of Fieldstone Mortgage Company. When the lender failed to receive payments on the loan, it was legally entitled to begin foreclosure proceedings. A foreclosure [trustee's] sale occurred and title passed to the highest bidder, as a bona fide purchaser at that trustee's sale. The excess funds bid at the trustee's sale were placed with the court in the consolidated interpleader action. The instant case was brought to determine the rightful claimant of these funds as between the Plaintiff, Jose Lopez Guzman, borrower and Carlos Vasquez, a subsequent lender of funds to the subsequent putative owner of the property. The Court hereby finds that the transfer of the subject property, at 737 Rose Street, Anaheim, California, from Jose Lopez Guzman to Gonzalo Llamas was by means of a grant deed forged by or on behalf of Defendant, Gonzalo Llamas. The Court further finds that all transfers flowing from that deed are void to include the grant deed from Gonzalo Llamas to Maria Monroy [the daughter of Gonzalo Llamas] and the deed of trust from Maria Monroy to Carlos Vasquez. These documents are outside the true chain of title [and] have no force and effect. Based on the above, the Court finds that Plaintiff, Jose Lopez Guzman is entitled to the funds which have been interpled. Plaintiff, Delfina Lopez shall take nothing by

this complaint. The trial of this action having taken less than one day, or less than eight hours over more than one day, and no request for statement of decision having been made, the Court Directs counsel for Plaintiff to prepare and serve a proposed judgment within 10 days." (First and fifth brackets added.)

Judgment, which reiterated the findings and conclusions set forth in the July 20, 2007 minute order, was entered. The judgment also stated, "IT IS FURTHER ADJUDGED, ORDERED, AND DECREED that based on the above, the Court finds that Plaintiff and Cross-Defendant, Jose Lopez Guzman, is entitled to the funds which have been interpled . . . currently in the custody of the Court."[3]

Vasquez appealed. Vasquez filed a motion to augment the record with the six exhibits admitted into evidence during the second bench trial. In response to this court's order requiring the parties to transmit the original trial exhibits to this court, Vasquez lodged the original trial exhibits with this court, which are deemed part of the appellate record. (Cal. Rules of Court, rule 8.122(a)(3) ["Except as provided in (b)(4), all exhibits admitted in evidence, refused, or lodged are deemed part of the record"].)

Guzman and Lopez filed a motion to augment the record, impose sanctions, and dismiss the appeal. For the reasons discussed in the Discussion section, part VI., *post*, we grant the motion to augment the clerk's transcript with certain court documents, but otherwise deny the motion.

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[3] In the respondents' brief, Guzman and Lopez request that this court remand the matter to the trial court with directions to revise the judgment "to fill out the amount of remaining Interpleader funds to [be] awarded to Respondent Lopez-Guzman." In order "[t]o obtain affirmative relief by way of appeal, respondents must themselves file a notice of appeal and become cross-appellants." (Eisenberg et al., Cal. Practice Guide: Civil Appeals and Writs (The Rutter Group 2007) ¶ 8:195, p. 8-129 (rev. # 1, 2007).) Neither Guzman nor Lopez filed a notice of appeal in this case. Neither is therefore entitled to the requested relief.

DISCUSSION

I.

The Trial Court Did Not Err by Admitting Portions of Guzman's Deposition into Evidence at the Second Bench Trial.

Vasquez contends the trial court erred by admitting portions of Guzman's deposition at the second trial in this matter. For the reasons discussed *post*, we disagree.

Code of Civil Procedure section 2025.620 provides in relevant part: "At the trial or any other hearing in the action, any part or all of a deposition may be used against any party who was present or represented at the taking of the deposition, or who had due notice of the deposition and did not serve a valid objection under Section 2025.410, so far as admissible under the rules of evidence applied as though the deponent were then present and testifying as a witness, in accordance with the following provisions: [¶] . . . [¶] (c) Any party may use for any purpose the deposition of any person or organization, including that of any party to the action, if the court finds any of the following: [¶] (1) The deponent resides more than 150 miles from the place of the trial or other hearing. [¶] (2) The deponent, without the procurement or wrongdoing of the proponent of the deposition for the purpose of preventing testimony in open court, is any of the following: [¶] . . . [¶] (D) Absent from the trial or other hearing and the court is unable to compel the deponent's attendance by its process. [¶] (E) Absent from the trial or other hearing and the proponent of the deposition has exercised reasonable diligence but has been unable to procure the deponent's attendance by the court's process." (See Wegner et al., Cal. Practice Guide: Civil Trials and Evidence (The Rutter Group 2008) ¶ 8:813, p. 8C-102 ["the deposition can be used as a *substitute for live testimony* at trial, either as impeachment or substantive evidence, and either by or against the party whose deposition was taken or *any other party* who was present or had notice of the deposition"].)

Here, the record shows the portions of Guzman's deposition testimony were admitted at trial against Llamas and Monroy, not against Vasquez. Vasquez does not contend the requirements of Code of Civil Procedure section 2025.620, subdivision (c) were not met as to Llamas and Monroy, or that Guzman's deposition testimony was otherwise inadmissible as against those two defendants. The record also shows Guzman was unable to appear at trial because at that time he was incarcerated in a federal prison in Dallas, Texas.

Furthermore, Loanstar Mortgagee Services' complaint in interpleader alleged Vasquez's and Guzman's competing claims to the excess funds from the foreclosure sale. And yet, the record does not show Vasquez ever made any attempt to depose Guzman. Even after the Guzman action and the interpleader action had been consolidated in August 2006, the first bench trial did not occur for another seven months. Vasquez does not explain why he did not depose Guzman or identify any subjects he might have explored had he had the opportunity to cross-examine Guzman during his June 2006 deposition.

Vasquez argues the admission of portions of Guzman's deposition violated Evidence Code section 1291 because he (1) never received notice of the Guzman deposition; (2) was not a party to the Guzman action; and (3) never had the opportunity to cross-examine Guzman. Evidence Code section 1291, however, is consistent with Code of Civil Procedure section 2025.620, subdivision (c) and, consequently, provides further support for the trial court's decision to admit Guzman's deposition testimony against Llamas and Monroy. Evidence Code section 1291, subdivision (a) provides in relevant part: "Evidence of former testimony is not made inadmissible by the hearsay rule if the declarant is unavailable as a witness and: [¶] . . . [¶] (2) The party against whom the former testimony is offered was a party to the action or proceeding in which the testimony was given and had the right and opportunity to cross-examine the declarant with an interest and motive similar to that which he has at the hearing." Evidence Code

section 1290, subdivision (c) defines the term "former testimony" as including testimony given under oath in a "deposition taken in compliance with law in another action."

As discussed *ante*, it is undisputed Guzman was unavailable as a witness at trial due to his incarceration in Dallas, Texas. Guzman's deposition testimony was offered at trial against Llamas and Monroy who were named defendants in the Guzman action; thus, it does not matter that Vasquez did not receive notice of the deposition, was not a party to the Guzman action before it was consolidated with the interpleader action and did not have the opportunity to cross-examine Guzman at Guzman's deposition. As the Guzman action remained unresolved before the second trial, both Llamas and Monroy had the same motive in defending against Guzman's claims during Guzman's deposition as they did at the trial itself. Thus, admitting portions of the Guzman deposition against Llamas and Monroy did not violate Evidence Code section 1291, subdivision (a)(2).

We find no error.

II.

Vasquez Failed to Show the Trial Court Prejudicially Erred by Admitting Guzman's Deposition Testimony Regarding a Deposition Exhibit.

In the opening brief, Vasquez's entire argument regarding the admission of Guzman's deposition testimony regarding a deposition exhibit is as follows: "In regards to the GUZMAN deposition, as it was being read into the record, Plaintiffs' counsel made reference, and testimony was received, concerning an Exhibit/document. This document was hearsay, counsel for VASQUEZ objected, yet the court allowed said testimony on this subject. This was in error, it should not have been allowed, and further prejudiced VASQUEZ in that Plaintiff GUZMAN was allowed to testify about a purported Grant Deed (From GUZMAN to LLAMAS) that was a copy, only (RT. Pg. 188, Lns. 16-26; and Pg. 189, Lns. 1-9). [¶] GUZMAN was not present to testify and, hence, was never shown a certified copy of the Grant Deed. Any testimony concerning this document

should not have been allowed. It is hearsay and it is not self authenticating. [¶] Any reference or testimony concerning a regular copy of a document is wholly improper."

The opening brief cites the following exchange between Vasquez's counsel and the court regarding this testimony:

"[Vasquez's counsel]: I want to interpose an objection. Any reference to this document, although in this deposition we do have an exhibit 1 and then an exhibit 2, which I guess we're going to get to shortly, this exhibit 1 is not a certified copy of this document. This is just a rudimentary copy. It also has other writing on it, so this document has been altered. So, it is not self-authenticating. [¶] So, my objection is this document as referred to in this portion of the deposition, it lacks foundation, it is hearsay, it is not a certified copy of the county recorder's deed.

"The Court: Nobody said it was. What we're doing, she's asking him questions about a document at which he's looking, and I think he can answer questions about the document. Nobody said that it's a certified copy, nobody said that it's authentic. All it has to be is he's looking at something, and if we can identify what it is he's looking at he can answer questions about it.

"[Vasquez's counsel]: Very well. Thank you."

Exhibit 1 of the Guzman deposition (which was a copy of the allegedly forged grant deed) was not admitted into evidence (although a certified copy of that document was admitted into evidence). Vasquez has failed to provide any legal authority or argument explaining why the admission of Guzman's deposition testimony in which Guzman identifies exhibit 1 constituted prejudicial error. Even if the trial court erred by admitting such testimony, such error was harmless in light of the admission of Guzman's other deposition testimony that he never gave Llamas consent to sign title of the property over to Llamas.

III.

Vasquez Has Failed to Show the Trial Court Prejudicially Erred by Failing to Dismiss Guzman and Lopez's Claims for Cancellation of Deed, Ejectment, and Declaratory Relief Before Trial.

Vasquez contends the trial court erred by failing to dismiss, before trial, Guzman and Lopez's claims for cancellation of deed, ejectment, and declaratory relief, as set forth in the second amended complaint, on the ground they "were moot or non-justiciable at the time of trial." Vasquez contends Guzman could not prevail on any of those claims because the property was subsequently sold at the foreclosure sale.

Oddly, Vasquez did not designate a copy of Guzman and Lopez's second amended complaint (or any prior complaint) in the appellate record. In any event, Vasquez does not argue (much less establish) that the trial court's refusal to dismiss Guzman and Lopez's claims constituted prejudicial error. The judgment does not show Guzman prevailed on any of the claims asserted in the second amended complaint; instead, it shows the court resolved the interpleader action by determining that Guzman was the rightful claimant to the excess funds. Thus, even assuming the trial court erred by failing to dismiss the second amended complaint before trial, any such error was harmless.

IV.

The Trial Court Did Not Err by Consolidating the Guzman Action with the Interpleader Action.

Vasquez contends the trial court erred by trying the Guzman action and the interpleader action "together as fully consolidated" because it "was highly prejudicial to VASQUEZ and unjust." He further argues the trial court only partially consolidated the two cases and "[e]ach case was entitled to its own independent adjudication."

Section 1048, subdivision (a) of the Code of Civil Procedure provides: "When actions involving a common question of law or fact are pending before the court,

it may order a joint hearing or trial of any or all the matters in issue in the actions; it may order all the actions consolidated and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay."

The trial court granted Guzman and Lopez's motion to consolidate the Guzman action and the interpleader action. The record does not show Vasquez ever objected to consolidation. Vasquez does not contend that the Guzman action and the interpleader action failed "to involv[e] a common question of law or fact," or otherwise failed any criteria in favor of consolidation. Vasquez does not argue the trial court abused its discretion in consolidating the Guzman action and the interpleader action. We find no error.

V.

Vasquez Has Failed to Show that Guzman and Lopez's Withdrawal of the Lis Pendens Affected Their Right to Claim Excess Funds from the Foreclosure Sale.

Without citing any legal authority, Vasquez argues Guzman and Lopez forfeited their right to claim the excess funds from the foreclosure sale because they withdrew the notice of pendency of action they had recorded on the property after they initiated the Guzman action in 2005. Vasquez argues Guzman and Lopez "by virtue of the withdrawal of the lis pendens (and its cancellation by operation of law through the foreclosure) have lost their rights to the property. And, as contended hereinbefore, their pleadings (to wit: their 2nd Amended Complaint) was improper as a basis for the Court to grant the relief requested. [¶] They were no longer entitled to ownership or possession, hence, they could only recover damages from LLAMAS, which was not plead[ed] correctly. And, they could not collect money as to the Interpleader because neither of the Plaintiffs was before the Court at trial on that action. Either way, the court could not fashion a damages remedy where it was not properly plead[ed]."

As to Vasquez's argument Guzman and Lopez were not entitled to ownership or possession of the property and failed to plead damages, the judgment did not provide Guzman and Lopez any of those remedies. At the time the Guzman action was initiated, the foreclosure sale had not yet occurred, and Guzman and Lopez sought to cancel the forged grant deed, eject Llamas and Monroy from the property, and obtain a judicial declaration as to their rightful ownership and possession of the property. After payments were not made on the loan to Guzman which was secured by a deed of trust on the property, the property was sold in a foreclosure sale, and Guzman and Lopez lost their rights to ownership and possession of the property. The judgment therefore solely provided Guzman and Lopez the right to the excess funds from the foreclosure sale.

Vasquez's contention Guzman and Lopez relinquished their right to claim those funds once they withdrew the lis pendens on the property is without support. Sections 405.60 and 405.61 of the Code of Civil Procedure, which address the effect of the withdrawal or expungement of a notice of pendency of action, simply do not support Vasquez's argument. Section 405.60 provides: "Upon the withdrawal of a notice of pendency of action . . . or upon recordation of a certified copy of an order expunging a notice of pendency of action pursuant to this title, neither the notice nor any information derived from it, prior to the recording of a certified copy of the judgment or decree issued in the action, shall constitute actual or constructive notice of any of the matters contained, claimed, alleged, or contended therein, or of any of the matters related to the action, or create a duty of inquiry in any person thereafter dealing with the affected property." Section 405.61 provides: "Upon the withdrawal of a notice of pendency of action pursuant to Section 405.50 or upon recordation of a certified copy of an order expunging a notice of pendency of action pursuant to this title, no person except a nonfictitious party to the action at the time of recording of the notice of withdrawal or order, who thereafter becomes, by conveyance recorded prior to the recording of a certified copy of the judgment or decree issued in the action, a purchaser, transferee, mortgagee, or other

encumbrancer for a valuable consideration of any interest in the real property subject to the action, shall be deemed to have actual knowledge of the action or any of the matters contained, claimed, or alleged therein, or of any of the matters related to the action, irrespective of whether that person possessed actual knowledge of the action or matter and irrespective of when or how the knowledge was obtained. [¶] It is the intent of the Legislature that this section shall provide for the absolute and complete free transferability of real property after the expungement or withdrawal of a notice of pendency of action." Neither section 405.60 nor section 405.61 provides that a party who withdraws a notice of pending action as to a property loses the right to claim excess funds from a foreclosure sale of that property.

We find no error.

VI.

Guzman and Lopez's Motion to Augment the Record, Impose Sanctions, and Dismiss the Appeal

Guzman and Lopez filed a motion to augment the record, impose sanctions, and dismiss the appeal. As to the motion to augment the record, Guzman and Lopez request that the appellate record be augmented (1) to include certain documents filed in the Guzman action before and after it was consolidated with the interpleader action; and (2) to have included five additional days of trial and/or hearings before the trial court transcribed. We grant the motion to augment the record with the documents filed in the trial court before the second bench trial. (Cal. Rules of Court, rule 8.155(a).) Supplementing the reporter's transcript with additional days of hearings and trials, however, is unnecessary for the resolution of the issues on appeal. We therefore deny the motion to augment the record with a supplemental reporter's transcript.

As to Guzman and Lopez's motion seeking sanctions against Vasquez, section 907 of the Code of Civil Procedure permits recovery of costs when an appeal is "frivolous or taken solely for delay" and rule 8.276(a)(1) of the California Rules of Court

permits the imposition of sanctions including costs for "[t]aking a frivolous appeal or appealing solely to cause delay." In *In re Marriage of Flaherty* (1982) 31 Cal.3d 637, 650, the California Supreme Court stated: "[A]n appeal should be held to be frivolous only when it is prosecuted for an improper motive—to harass the respondent or delay the effect of an adverse judgment—or when it indisputably has no merit—when any reasonable attorney would agree that the appeal is totally and completely without merit." (See *DeRose v. Heurlin* (2002) 100 Cal.App.4th 158, 179.) These standards have not been met. We therefore deny the motion to impose sanctions.

Because Guzman and Lopez failed to cite legal authority showing that the appeal should be dismissed, we deny their motion to dismiss.

DISPOSITION

The judgment is affirmed. Respondents shall recover costs on appeal.

FYBEL, J.

WE CONCUR:

RYLAARSDAM, ACTING P. J.

ARONSON, J.